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FISCAL IMPACT STATEMENT

LS 7302 **NOTE PREPARED:** Apr 15, 2009
BILL NUMBER: HB 1344 **BILL AMENDED:** Apr 13, 2009

SUBJECT: Administration of property tax deductions.

FIRST AUTHOR: Rep. Pryor **BILL STATUS:** As Passed Senate
FIRST SPONSOR: Sen. Dillon

FUNDS AFFECTED: X **GENERAL** **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: (Amended) *Standard Deduction:* This bill requires sales disclosure forms and property tax bills to include information concerning the consequences of claiming more than one standard deduction and the procedures and deadlines for terminating a standard deduction. The bill establishes other filing requirements for a standard deduction that are similar to the filing requirements that applied to homestead credit applications.

The bill provides that an applicant for a standard deduction must include either the last five digits of the applicant's Social Security number or, if the individual does not have a Social Security number, the last five digits of the individual's driver's license number or state identification card number, or of a control number that is on a document issued to the individual by the federal government and determined by the Department of Local Government Finance (DLGF) to be acceptable.

This bill makes other changes to reconcile differences in the law related to the enactment of HEA 1001-2008 and HEA 1293-2008.

Improper Deductions and Credits: This bill specifies that tax statements must in 2010, 2011, and 2012 include a form for taxpayers to use to verify certain deductions and credits to which the taxpayers are entitled. The bill provides that the county auditor may, in the county auditor's discretion, terminate the deductions or credits for assessment dates after January 15, 2012, if an individual does not verify the deductions and credits before January 1, 2013. The bill requires the county auditor to provide notice of a proposed termination of a deduction or credit before the auditor terminates a taxpayer's deduction or credit because the taxpayer did not comply with the requirement to return the form to verify the taxpayer's deductions and credits.

This bill provides that if a county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with the verification requirements before January 1, 2013, the county auditor shall reinstate the deduction if the taxpayer provides proof that the taxpayer is eligible for the deduction and is not claiming the deduction for any other property.

The bill provides that the county auditor shall prepare and send a notice of taxes due when a standard deduction is wrongly claimed. It imposes a civil penalty of 10% of the tax due for a person who wrongly takes a standard deduction or credit. It specifies that 1% of the total amount of the civil penalty collected from taxpayers that improperly claim the standard deduction and homestead credit shall be transferred by the county to the DLGF for use in establishing and maintaining the homestead property database and, to the extent there is money remaining, for any other purposes of the DLGF.

The bill permits a county auditor to use delinquent taxes, interest, and penalties collected in response to the termination of a standard deduction to pay for the costs of discovering erroneously granted standard deductions and for other expenses of the office of the county auditor, including the cost of verification notices on tax statements.

This bill also specifies that the adjustment in tax due (and any interest and penalties on that amount) after the termination of a standard deduction or homestead credit shall be deposited in the nonreverting fund only in the first year in which that amount is collected. It provides that money in the nonreverting fund may be spent only after appropriation by the county fiscal body.

Additionally, the bill requires the DLGF to work with the county auditors on procedures to determine if a standard deduction claimant is ineligible because they maintain their principal residence outside of Indiana.

Provisional Tax Statements: This bill specifies that beginning with property taxes first due and payable for assessment dates after January 15, 2009, a county may apply a standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on a provisional bill. It specifies that if a provisional bill has been used for property tax billings for two consecutive years, the county shall apply a standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on the provisional bill.

Study: This bill requires the Commission on State Tax and Financing Policy to study in 2011 issues related to the form for taxpayers to use to verify the deductions or credits to which taxpayers are entitled and the termination of deductions or credits under that form.

Electronic Tax Statements: This bill permits a county legislative body to authorize the transmission by electronic mail of property tax statements and related information. It charges the county treasurer and county auditor with the administration of the program. The bill requires the designation of a single electronic mail address for joint owners and entities other than individuals. If the electronic mail is not received, the bill requires the county treasurer to mail a hard copy of the statement.

Electronic Tax Payments: The bill allows for automatic deductions of payments for property taxes and special assessments from any account held by a financial institution, not just from a checking account. It requires a county to distribute revenue from monthly installment property tax collections to political subdivisions in the county at the normal semiannual distribution date.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Standard Deduction - Applications:* The DLGF would have to amend the sales disclosure form (SDF) to include instructions and information that would permit a taxpayer to terminate a standard deduction on a property that is no longer homestead-eligible. The information would include an explanation of the tax consequences and penalties for unlawfully claiming a standard deduction.

The DLGF designs the SDF and also maintains a web site for electronic entry of the forms. Minor changes would need to be made to both the paper form and the web site to allow for the changes under this bill. The DLGF should be able to make these changes within its existing level of resources.

Standard Deduction - Eligibility: Under this proposal, the DLGF would be required to maintain a homestead property database with secure access for county auditors. The database must include the owner's name and the last five digits of the owner(s) social security number(s). If the individual does not have a Social Security number then the last five digits of a driver's license number, state I.D. card number, or federal document control number would be captured. The database would be used to verify whether a property owner is wrongly claiming deductions and credits that are available against homestead property.

The DLGF already maintains a homestead lookup database that may be used by local officials. The database includes the name and address of the homestead owner and the property parcel number. The last five digits of the of the I.D. number would have to be added and the access would have to be secured.

Electronic Tax Statements: This bill directs the DLGF to design and promote a form for taxpayers to authorize the county to transmit their property tax statements via electronic mail. This must be completed before 2010. This could add administrative duties to the DLGF. Ultimately, the source of funds and resources required to satisfy the requirements of this bill would depend upon legislative and administrative actions.

Explanation of State Revenues: *Standard Deduction - Eligibility:* Under the bill, 1% of the penalty amount received from taxpayers who received the standard deduction and associated benefits but were found to be ineligible would be transferred to the DLGF. The DLGF would use this money to establish and maintain the homestead property database.

Explanation of Local Expenditures: *Standard Deduction - Eligibility:* Under current law, the county treasurer must annually mail a tax statement, called a TS-1, to each property owner. Under this bill, the TS-1 would have to contain the procedure and deadline for a taxpayer to notify the county that property no longer qualifies for a deduction or credit that has been previously granted.

The treasurer would also have to include an additional notice on different colored paper along with the mailing of the TS-1 in 2010, 2011, and 2012 . The notice would explain the tax consequences and penalties for unlawfully claiming a standard deduction. Homeowners would return a verification of homestead deduction eligibility that includes the individual and spouse's names as they appear in Social Security Administration records or as they appear when signing legal documents and the last five digits of their social security numbers. If an individual does not have a Social Security number then the last five digits of a driver's license number, state I.D. card number, or federal document control number would have to be provided.

If the tax statement is returned to the county treasurer as undeliverable with an expired forwarding order, the county auditor may remove all deductions and credits from the property.

Beginning with taxes payable in 2013, a county auditor may, at their discretion, terminate the mortgage, aged, blind, disabled, veterans, and standard deductions on a property if the owner fails to return the verification of eligibility by December 31, 2012. The auditor must send a notice of termination to the last known address of the owner. The county auditor must reinstate the deductions if the taxpayer subsequently provides proof of eligibility.

The additional printing and handling of the notices would increase the treasurers' expense for sending the TS-1. There are just over 1.7 M homesteads statewide. Funds from the county auditor's non-reverting fund may be used for this purpose.

Electronic Tax Statements: For taxes payable in 2010 and after, this bill authorizes counties to transmit property tax statements and related information to taxpayers via electronic mail. This could result in startup costs for those counties that choose to implement its provisions. However the startup costs could be mitigated by savings with reduced costs of mailing and processing tax statements.

If it has not already done so, each county would also have to either purchase or contract for electronic mail capability; this could include the purchase or upgrade of computers, software, and continuing technical support.

Additionally, the county would have to maintain a list of those taxpayers who choose electronic mail tax bills and to determine whether these taxpayers actually did receive their statements via this medium. If the county determines that the taxpayer did not receive the tax bill via electronic mail, it would have to send the statement to the taxpayer via regular mail. The deadline for payment would be the due date on the original statement transmitted via electronic mail.

On the other hand, counties should generally see a decline in operating costs due to a decrease in regular mailings. Depending on how a county manages its tax billing process and the number of taxpayers who choose the electronic mail option, the decrease in operating costs could be substantial. For example, one county indicated that it spends between $1.00 and $1.50 to process a tax bill. This includes cost of printing, transportation (the county currently contracts out the insertion of the tax bills into the envelopes but must transport the bills and envelopes to the contractor), computer accessories (printer cartridges, toner etc), and paper. Once the startup costs for setting up the database for e-mail transmission have been covered, the county estimates that it will save close to $1 per each tax bill sent out via this medium; as a minimum counties would be able to save on the postage costs. Additionally, counties that have to send out both provisional bills and reconciliation statements for a particular pay year could see their savings double for that pay year.

<u>Background:</u> Only 2 of the 92 counties do not currently have e-mail capability in the treasurer's office. Current law permits automatic payments from checking accounts. Additionally, 22 counties, including the 2 counties alluded to above, have contracted with a service that allows their taxpayers to pay their bills on-line or by phone. Taxpayers pay their bills by credit card, usually for a fee that the taxpayer also pays. At least one county permits its taxpayers to pay at selected banks that charge a fee for the service, and this county also notifies taxpayers (at their request) about pending due dates. Some counties also notify taxpayers via e-mail, at their request, when property tax statements become available for review.

There are many options for counties who desire to obtain e-mail capability or upgrade their current service. Depending on the service, setup fees can range from $0 to about $600 with average monthly payments ranging from about $10 to $120.

<u>Explanation of Local Revenues:</u> *Homesteads - Generally:* The homestead standard deduction equals

$45,000, limited to 60% of the homestead's gross assessed value. Homeowners who receive the standard deduction also receive the supplemental standard deduction that provides an additional deduction of up to 35% of the net AV remaining after application of the standard deduction. Additionally, homesteads in many counties also receive county-funded homestead credits. In 2010, the net property tax on homesteads will be limited to 1% of gross AV whereas non-homestead residential property will have a 2% circuit breaker cap.

Many provisions of this bill would assist county auditors in their duty to ensure that only eligible taxpayers receive the standard deduction and other homestead benefits on only one property. If these provisions result in a reduction the number of properties with homestead status, then the increased tax base would shift a part of the tax burden from all taxpayers to the homestead-ineligible properties that had been improperly receiving the deduction. The amount of county-funded credits credited to the remaining homesteads would, for the most part, be increased. The higher tax cap for the homestead-ineligible properties would increase property tax collections for taxing units where net taxes for some homesteads exceed the 1% circuit breaker cap.

Standard Deduction - Applications: Before the passage of HEA 1001-2008, homeowners filed an application for the state homestead credit and the standard deduction was automatically granted to all homeowners who received the credit. Since the homestead credit was eliminated by HEA 1001-2008, homeowners must now apply directly for the standard deduction. This bill reconciles multiple versions of the deduction statutes and completes the transformation so that the eligibility and filing requirements for the standard deduction are similar to those of the former homestead credit. Under this bill, homeowners may apply for the standard deduction on a SDF and may apply at any time during the assessment year to be effective for taxes payable in the following year.

Under previous law, an application for the homestead credit had to include the name of <u>any other county and township</u> in which the applicant owns or is buying real property. This bill would require that an application for the standard deduction include the name of <u>any location</u> in which the applicant <u>or spouse</u> owns, is buying, <u>or has a beneficial interest in</u>, real property.

The application would have to include the applicant and spouse's names both as they appear in Social Security Administration records and as they appear when signing legal documents. The bill would also require the transferee and spouse to include the last five digits of their social security numbers. If an individual does not have a Social Security number then the last five digits of a driver's license number, state I.D. card number, or federal document control number would have to be provided.

Standard Deduction - Penalty Provisions: Under this bill, a taxpayer must notify the county auditor within 60 days of any change in the use of homestead property that renders all or part of the property ineligible for the standard deduction. Failure to make the notification would result in a liability for the taxes that would have been due on the property without the deductions and associated credits plus a penalty equal to 10% of the additional tax. The county auditor would issue a notice of tax, interest, and penalties due. The notice must require full payment within 30 days. Unpaid amounts after 30 days would be added to the tax duplicate an collected as other taxes.

Under the bill, 1% of the penalty amount would be transferred to the DLGF. Each county auditor would be required to establish a non-reverting fund for deposit of delinquent taxes, penalties, and interest collected within the first year from taxpayers who received the standard deduction and associated benefits but were found to be ineligible. Money in the fund could only be used, as appropriated by the county fiscal body, by the county auditor to cover fees and costs incurred in the discovery of improper standard deductions and homestead credits, for other expenses of the auditor's office, and for the costs associated with the additional notices to be included with tax bills. These funds may not be considered in setting the auditor's budget or the county's tax levy.

Provisional Tax Statements: Under current law, a county may elect to send out provisional tax statements to its taxpayers if the county abstract is not completed by March 15th of the tax payment year. The abstract is prepared when tax rates are certified and tax bills are figured. Provisional bills are based on 90% of the previous year's taxes. The first installment is due on May 10th unless the notice of reassessment or trended assessment is sent after March 26th, in which case the payment is due 45 days after the tax billing statement is mailed. The second installment is due on November 10th unless the May due date was delayed, in which case the November due date may be moved to any date through December 31st.

Under this proposal, the May 10th and November 10th installment dates would no longer be specified. For taxes payable in 2010 and later, the county would have the option of applying the standard and supplemental standard deductions and homestead credits on a provisional bill but would be required to apply them if provisional billings have been used for two consecutive years.

The provisional bill would have to include the procedure and deadline for a taxpayer to notify the county that a property no longer qualifies for a deduction or credit that has been previously granted. The statements would also have to include an explanation of the tax consequences and penalties for unlawfully claiming a standard deduction.

The amount billed through provisional billings for some taxpayers could be reduced under this bill if the treasurer applies deductions and credits in a year that result in tax a bill equal to less than 90% of the previous year's bill. The full year's property taxes are settled through the reconciliation bill.

Electronic Tax Payments: The bill also extends automatic deduction of property tax payments from accounts other than checking accounts such as savings accounts. As noted above, some counties permit on-line payments via credit cards. As a result, both the counties and taxpayers would have additional tools to manage their property tax payments. The bill stipulates that if a taxpayer elects to receive his tax bill by electronic mail and did not receive it by the due date, the county is obliged to send the tax bill via regular mail to the taxpayer. The deadline for payment would still be the due date on the original statement transmitted via electronic mail. The impact on revenues would be negligible.

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: County auditors; County treasurers; County recorders.

Information Sources: County treasurers; County websites; Cindy Land and Thomas R. Creasser, II, Marion County Treasurer's Office, 317-327-4040; Roger A. Bainbridge, Grant County Treasurer's Office, 765-668-6556.

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